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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK  
OFFICE PATENT OPERATIONS

re: Bernd HABER *et al.*

Art Unit: 1614

Application No.: 10/539,174

Examiner: M. L. McCormick

Filing Date: June 14, 2005

Title: *Cholesterol-reducing agent containing an n-3 fatty acid*

Commissioner for Patents  
Alexandria, VA 22313-1450  
Dear Sir:

Charlotte, NC 28211  
July 25, 2006

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

An Information Disclosure Statement (IDS) was initially filed on June 14, 2005. The Office Action of July 6, 2006 indicates that physical copies were not included. Applicants respectfully submit that electronic copies of the references, which are quite lengthy, were provided on a CD enclosed in the IDS of June 14, 2005. Consequently this revised IDS, providing the requested physical copies, is filed under 37 C.F.R. 1.97(c) after the first Office Action on the merits, but before a Final Office Action or a Notice of Allowance. The \$180.00 fee set forth in 37 CFR§ 1.17(p) in accordance with 37 CFR§ 1.97(c) is to be charged to Deposit Account No. 502193.

Exhibits 1 - 3 were taken from a review of co-pending U.S. Application No. 10/539,903 commonly assigned to Nutrinova Nutrition Specialties & Food Ingredients GmbH, also filed on June 14, 2005. This submission, made out of an abundance of caution and in compliance with *Dayco Products, Inc. v. Total Containment, Inc.* 329 F.3d 1358 (Fed. Cir. (MO) May 23, 2003), does not represent that the above-noted cases constitute an application family. Applicant respectfully requests that each reference be reviewed and made of record in the instant application. Each of the references noted within the attached Forms PTO/SB/08A and PTO/SB/08B are being simultaneously supplied in U.S. Application No. 10/539,903. Consequently, it is assumed that no copies need be furnished. However, copies will be furnished upon request.

Attorney Docket No. 02/085 NUT  
Customer No. 38263

This submission further does not represent that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art."

Respectfully submitted,

*Cathy Moore*

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**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

<u>Typed or printed name</u>	Claire Wygand		
<u>Signature</u>	<i>Claire Wygand</i>	<u>Date</u>	7/25/06

## Exhibit 1



PTO/SB/08A				Complete if Known	
<b>Substitute for Form 1449A/PTO</b> <b>INFORMATION DISCLOSURE</b> <b>STATEMENT BY APPLICANT</b>				App. No.	10/538,174
				Filing Date	June 14, 2005
				First Named Inventor	Bernd HABER
				Group Art Unit	1655
				Examiner Name	M. L. McCORMICK
Sheet	1	Of	2 Sheets	Atty Docket No.	02/085 NUT (submitted in 02/084 NUT)

## U.S. PATENT DOCUMENTS

Examiner Initials'	Cite No.	U. S. Patent Number	Kind Code	Name of Patentee or Applicant of Cited Document	Publication Date	Class	Sub Class

## FOREIGN PATENT DOCUMENTS

Examiner Initials'	Cite No.	Office Code	Foreign Patent Document Number		Kind	Name of Applicant or of Cited Document	Publication Date	Class	Subclass	T 6
		WO	95/35277		A1	Schering Corp.	12/28/1995	C07D	205/08	X
		WO	96/38047		A1	Unilever	06/01/1995	A23D	9/00	X
		WO	97/33882		A1	G.D. Searle & Co.	9/18/97	C07D	337/08	X
		WO	99/56558		A1	Raisio Benecol OY	07/08/2003	A23D	9/007	X
		WO	02/058733		A2	Schering Corp.	08/01/2002			
		EP	0 616 780		A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
		JP	60-196157			Amano Seiyaku	10/04/1985	A23L	1/03	
		JP	63-216490			Sagami Chem. Res. Ctr.	09/08/1988	C12P	7/64	
		JP	2000/245442			Sagami Chem. Res. Ctr.	09/12/00	C12n	1/20	
		JP	2001/309797			Nat. Institute of Advanced Industrial Science & Tech.	11/06/2001	C12P	7/64	
Examiner Signature					Date Considered					

**IDS cited in spec**

## Exhibit 2



PTO/SB/08A		Complete if Known	
<b>Substitute for Form 1449A/PTO</b> <b>INFORMATION DISCLOSURE</b> <b>STATEMENT BY APPLICANT</b>		App. No.	10/538,174
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		Sheet	1
		Attorney Docket Number	02/085 NUT (submitted in 02/084 NUT)

## U.S. PATENT DOCUMENTS

CITED PATENT DOCUMENTS							
Examiner Initials'	Cite No.	U. S. Patent Number	Kind Code	Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Class	Sub class

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**FOREIGN PATENT DOCUMENTS**

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## IDS in EPO rpt

# Exhibit 3



PTO/SB/08B				Complete if Known	
Substitute for Form 1449A/1449B <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				App. No.	10/538,174
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Sheet	1	OF	1	Attorney Docket Number	02/085 NUT (submitted in 02/084 NUT)

OTHER PRIOR ART – NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), Title of the Article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, page(s), volume-issue number(s), publisher, city and/or country where published	T6
		ST-ONGE MARIE-PIERRE et al. "Consumption of a diet containing medium chain triglycerides, phytosterols and flaxseed oil for 28 d decreased blood lipid parameters compared to a diet containing olive oil" FASEB JOURNAL, Vol. 16, no. 4; March 20, 2002 p. A636 XP009028412	x
		Annual Meeting of the Professional Research Scientists on Experimental Biology; New Orleans, Louisiana, April 20-24, 2002 ISSN: 0892-6638 the whole document	
		DREXEL H et al.: "Therapy of hyperlipoproteinemia!" SCHWEIZERISCHE RUNDSCHAU FUR MEDIZIN PRAXIS = REVUE SUISSE DE MEDECINE PRAXIS. Switzerland April 27, 1993 Vol. 82, no. 17; pp 506-509 XP009028411; ISSN: 1013-2058 , Tabelle p 508	x
FARMER J. A. et al.: "Choosing the right lipid-regulating agent: A guide to selection" DRUGS 1996 NEW ZEALAND. Vol. 52, no. 5; pp 649-661, XP009028410; ISSN: 0012-6667 , p 652; table 3	x		
EXAMINER		DATE CONSIDERED	
EXAMINER: Initial citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.			

PTO/SB/08A		JUL 27 2006 U.S. PATENT & TRADEMARK OFFICE		Complete if Known	
<b>Substitute for Form 146 PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>		App. No.	10/539,174		
		Filing Date	6/14/05		
		First Named Inventor	Bernd HABER		
		Group Art Unit	1655		
		Examiner Name	M. L. McCormick		
Sheet	1	Of	1	Attorney Docket Number	02/085 NUT

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**FOREIGN PATENT DOCUMENTS**

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Examiner Initials <sup>1</sup>	Cite No.	Foreign Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Class	Subclass	T6	
		Office Number	Kind Code						
		EP	0 616 780	A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
		EP	1 203 535	A1	Ind Agricolas de Mallorca SA: Universitat de les Illes Balears	05/08/2002	A23L	1/172	X
		WO	02/43659		SmithKline Beecham Corp; Bendich Adrienne	06/06/2002	A61K	31/07	X
		JP	62061925 Abstract		Riken Kagaku Kogyo KK	03/18/1987	A61K	35/78	
Examiner Signature				Date Considered					

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		4,027,009		Grier, et al.	5/31/1977	424	78.08
		4,231,938		Monaghan et al.	11/04/1980	260	343.5
		4,346,227		Terahara et al.	08/24/1982	560	119
		4,444,784		Hoffman et al.	04/24/1984	424	279
		5,177,080		Angerbauer et al.	01/05/1993	514	277
		5,273,995		Roth	12/28/1993	514	422
		5,354,772		Kathawala	10/11/1994	514	414
		5,998,400		Brieaddy et al.	12/07/1999	514	211
		6,087,353		Stewart et al.	07/11/2000	514	182
		6,180,660		Whitney et al.	01/30/2001	514	451
		6,221,897		Frick et al.	04/24/2001	514	431
		6,277,831		Frick et al.	08/21/2001	514	431

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		WO	95/35277	A1	Schering Corp.	12/28/1995	C07D	205/08	X
		WO	96/38047	A1	Unilever	06/01/1995	A23D	9/00	X
		WO	97/33882	A1	G.D. Searle & Co.	9/18/97	C07D	337/08	X
		WO	99/56558	A1	Raisio Benecol OY	07/08/2003	A23D	9/007	X
		WO	02/058733	A2	Schering Corp.	08/01/2002			
		WO	02/50060 = US6,703,386	A1	Advantis Pharma Deutschland AG	9/12/2002	C07D	205/08	
		EP	0 616 780	A2	Compania General Del Algarrobo	09/28/1994	A23L	1/308	X
		JP	60-196157		Amano Seiyaku	10/04/1985	A23L	1/03	
		JP	63-216490		Sagami Chem. Res. Ctr.	09/08/1988	C12P	7/64	
		JP	2000/245442		Sagami Chem. Res. Ctr.	09/12/00	C12n	1/20	
		JP	2001/309797		Nat. Institute of Advanced Industrial Science & Tech.	11/06/2001	C12P	7/64	
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		ST-ONGE MARIE-PIERRE et al. "Consumption of a diet containing medium chain triglycerides, phytosterols and flaxseed oil for 28 d decreased blood lipid parameters compared to a diet containing olive oil" FASEB JOURNAL, Vol. 16, no. 4; March 20, 2002 p. A636 XP009028412				x
		Annual Meeting of the Professional Research Scientists on Experimental Biology; New Orleans, Louisiana, April 20-24, 2002 ISSN: 0892-6638 the whole document				
		DREXEL H et al.: "Therapy of hyperlipoproteinemia!" SCHWEIZERISCHE RUNDSCHAU FUR MEDIZIN PRAXIS = REVUE SUISSE DE MEDECINE PRAXIS. Switzerland April 27, 1993 Vol. 82, no. 17; pp 506-509 XP009028411; ISSN: 1013-2058 , Tabelle p 508				x
FARMER J. A. et al.: "Choosing the right lipid-regulating agent: A guide to selection" DRUGS 1996 NEW ZEALAND. Vol. 52, no. 5; pp 649-661, XP009028410; ISSN: 0012-6667 , p 652; table 3				x		
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